

Art Unit: 3696



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/531,703
Filing Date: March 20, 2000
Appellant(s): KUMAR, SURESH

Do Te Kim
For Appellant

EXAMINER'S ANSWER

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This is in response to the “ORDER RETURNING UNDOCKETTED APPEAL TO THE EXAMINER” dated 5/18/2007. The Board of Patent Appeals and Interferences had indicated that claim 33 was rejected rather than claim 23 and that claims 2-5, 8, 9, 11-21, 22-32, 34-39 and 41-47 were rejected under 35 USC 103(a) but under the arguments section that follows (page 4, line 12), the Examiner presents arguments for rejected Claims 2-9, 11-21, 22-32, 34-39 and 41-47 under 35 USC 102(e).

The requested clarification on the status of the claims is that the Examiner had erroneously copied or referred to the Office action dated 12/29/2004 when he should have instead incorporated the Office action dated 6/16/2005 in the Prior Examiner Answer of 10/23/2006. The Office action dated 6/16/2005 was a correction of the Office action mailed 12/29/2004. The Examiner now incorporates the Office action dated 6/16/2005 in the instant Examiner Answer reflecting canceled claim 7 and amended claim 33.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board’s decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,021,398	AUSUBEL	2-2000
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(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10, 33 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Ausubel (US Patent No. 6,021,398).

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As per claims 1, 10, 33 and 40, Ausubel discloses a computer implemented method and apparatus wherein multiple items are being auctioned. Applicant is directed to the abstract of Ausubel. Ausubel also further teaches the steps of receiving an indication of a plurality of auctions and participating in some of the indicated auctions. Note column 8, lines 20-66. Ausubel also teaches providing a bidding technique to apply to the indicated auctions. See column 10, line 56 to column 12, line 19. Ausubel also teaches a bidder provides rules regarding bidding preferences. Applicant is directed to column 10, line 56 to column 12, line 19 of Ausubel.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-6, 8-9, 11-32, 34-39 and 41-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausubel (US Patent No. 6,021,398).

The teachings of Ausubel are discussed above. Ausubel does not explicitly state a bidding plan storage device. However, Ausubel discloses a user specifying bidding rules on how to bid. The bidding rules are similar to a bidding plan. Providing such in a storage device would have been obvious to one of ordinary skill in the art to implement in an electronic bidding system such as that of Ausubel in order to provide an automatic retrieval of the rules to apply for given

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scenario in a particular auction system. Thus, bids would have been placed in accordance with the bidding plan.

The teachings of Ausubel are given above. As per claims 2-9, 11-32, 34-39 and 41-47, placing a bid at the auction with the lowest current bid whenever being outbid is not explicitly stated in Ausubel. Such would have been obvious to one of ordinary skill in the art in the system of Ausubel with the motivation to secure a position wherein the possibility of obtaining the bidden item at low price exists.

Ausubel further teaches placing bids at a plurality of auctions so that multiple bids are pending simultaneously. See column 13, line 6 to column 18 of Ausubel. Bidding at an auction only after winning another auction would have been obvious to one of ordinary skill in the art because a bidder would have enough funds to use to apply at another auction. Bidding at an auction after losing at another auction is routinely done in the art. Permitting such in the system of Ausubel would have been obvious to one of ordinary skill in the art in order for a bidder to maintain a leverage on the bidding process.

The bidding technique including a combination of placing a bid at the auction with the lowest current bid whenever being outbid, bidding at a first auction until reaching a maximum bid and then bidding on a second auction, and bidding at a second auction only after winning a first auction is not explicitly stated in Ausubel. The Examiner notes that during an auction, a bidder may have the opportunity to place more than one bid at one or more different items. If there exist a plurality of auctions, the bidder will also be opted to place a bid at one or more of the plurality of auctions for one or more item. Provided such in the system of Ausubel would

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have been obvious to one of ordinary skill in the art in order to provide leverage to all bidders participating in the multiple auction system of Ausubel.

(10) Response to Argument

Appellant states that the auction in Ausubel is a single auction for multiple objects where multiple items are simultaneously offered for sale and bidders are allowed to submit bids on combinations of the offered items up until the auction's closing time, and argues that Ausubel does not teach or suggest that a bidding technique is applied to multiple auctions.

In response, it is noted that the appellant has admitted and listed on page 9 of their Brief that the various types of auctions for various different types of objects or services as being taught by Ausubel. Thus, each of the plurality of auctions is indeed a distinct auction for an object. Furthermore, it can also be seen that the different types of auctions are different auctions as the Appellant lists the different types or distinct types of auctions being operated simultaneously. Furthermore, it is noted that each of these types of auctions is managed under different rules. *For example, an English auction is an open type auction offering one item for sale. The auctioneer or computer system begins presenting low bids to bidders. Buyers call out bids to overcome a current price. The last remaining bidder wins the item and pays the price that he/she has bided. Whereas, a Vickery auction includes a variety of goods and allows the combination of bids. Bidders submit bids and the winning goods are submitted to bidders who believe the goods are of great value to them. The winning bidder pays the difference between the sum of every other bidders' bid value without that bidder's bid value and the sum of every other bidders' bid value including the winning bidder's bid value.* Thus, as can be seen, each of the

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different auctions performed in the system of Ausubel involves different rules or bidding techniques. Furthermore, Ausubel teaches that a bidder may provide a listing of bid increments and a user may modify their bids (see columns 11 and 12 of the reference). Thus, a bidder may participate in any of the listing auctions wherein each auction has distinct rules thereby allowing bidders to submit bids in accordance with the type of auctions being engaged in. Furthermore, auctions for different objects or items are also different auctions. A bidder may propose different bidding techniques in proceeding in an auction.

Appellant then argues that “those skilled in the art do not consider a single auction for multiple item to be the same as multiple auctions”, and provides an overview of a book by Professor Krishna and concludes that a single auction for multiple items is not the same as multiple auctions. In response, it is noted that only scenarios that may involve in “multiple auctions” and “a single auction of multiple items” are explained. It is not positively indicated that “multiple auctions” and “a single auction of multiple items” are different auctions. Furthermore, the appellant has stated that “Appellant’s respectfully asserts that the Office Action’s assertion that a single auction for multiple items is identical to multiple auctions is contrary is how one skilled in the art views such an auction”. The appellant’s statement is evidence that “multiple auctions” and “a single auction of multiple items” can be considered as a single auction or as multiple auctions of one or more items.

As per claims 5 and 13, Appellant then argues that the Examiner’s rationale that the Examiner’s rationale that “bidding at an auction only after winning another auction would have

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been obvious to one of ordinary skill in the art because a bidder would have enough funds to use to apply at another auction” is confusing because the bidder would have less funds to use.

In response, the Examiner notes that in the system of Ausubel, a bidder may bid for more than one item in a given auction and may also bid in more than one types of auctions. A bidder would then make a better decision whether to continue in another auction of another item depending of his/her available funds since if the bidder won in a previous auction, the bidder must make a determination whether he/she has sufficient funds or enough funds to proceed paying another auction that he/she may win.

As per claim 8, appellant argues that Ausubel does not teach a bidding technique. In response, the Examiner disagrees and the arguments presented above apply to claim 8 here.

As per claim 14, Appellant argues that Ausubel does not teach that “the bidding technique includes, in response to winning an auction, bidding at multiple auctions so that multiple bids are pending simultaneously”.

In response, Ausubel teaches various types of auctions and at least one auction for at least one or more items. In this instance a bidder if desired can in response to winning an auction bids at multiple auctions so that multiple bids are pending simultaneously. See columns 11 and 12 of Ausubel.

As per the appellant’s various dependent claims, it is noticed that these claims are directed to the types of desired rules to be set by a bidder.

The Examiner notes that the bidding system of Ausubel is a dynamic system having multiple rounds. Bidders may choose to submit bids on their set of bidding rules as the auction is unfolding and based on a particular round or based on certain events at a certain time. Thus, the bidder would want to revise their bids accordingly. Ausubel describes various scenarios in which a user may bid on more than one item using different desired rules or using different rules based on the type of auctions. See columns 11 and 12 of Ausubel. Having the types of rules as claimed would have been left to the particular bidder depending on the outcome that the bidder desires as such the types of desired rules set forth by a bidder would not affect the bidding system of Ausubel.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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